

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 26**

**CST INDUSTRIES, INC., d/b/a  
COLUMBIAN TEC TANK<sup>1</sup>**

**Employer**

**and**

**Case 26-RC-8297**

**UNITED STEELWORKERS OF  
AMERICA, AFL-CIO-CLC**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned. Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction here.<sup>2</sup>

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<sup>1</sup> The Employer's name appears as amended at the hearing.

<sup>2</sup> The Employer, CST Industries, Inc. d/b/a Columbian Tec Tank, is a Delaware corporation with a facility in Winchester, Tennessee where it is engaged in the business of manufacturing welded storage tanks. In the course of its operations, it annually purchases and receives goods valued in excess of \$50,000 which are shipped to it directly from points outside the State of Tennessee and it sells and ships goods valued in excess of \$50,000 directly to points outside the State of Tennessee.

3. Petitioner is a labor organization within the meaning of Section 2(5) of the Act and seeks to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute an appropriate unit for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All production and maintenance employees, including quality coordinators, small parts coordinators, decks and hoppers coordinator, gantry coordinators, assembly coordinators, paint coordinators, and shipping and receiving coordinator, employed by the Employer at its Winchester, Tennessee facility; excluding the maintenance coordinator, scheduler, office clerical and professional employees, guards and supervisors as defined in the Act.

The Petitioner seeks to represent a unit of production and maintenance employees at the Employer's Manchester, Tennessee facility. While the parties are otherwise in agreement regarding the description of the unit, the Employer contends, contrary to the Petitioner, that the unit should not include 14 employees classified as maintenance coordinator, decks and hoppers coordinator, shipping and receiving coordinator, paint coordinators, assembly coordinators, gantry coordinators, small parts coordinators and quality coordinators. The Employer contends these employees should be excluded because they are supervisors within the meaning of Section 2(11) of the Act. There are approximately 80 employees in the petitioned-for unit, including those in the disputed classifications.

As explained below, I find that, with the exception of the maintenance coordinator, the Employer has not met its burden of establishing that the coordinators are supervisors under the Act.

### **Facts**

The Employer operates a 96,000 square foot facility in Manchester, Tennessee, where it manufactures steel and aluminum storage tanks. The Employer began conducting business at its Manchester facility on January 10, 2001, following an asset purchase from A.O. Smith. At the time of the acquisition, the Employer retained all of A.O. Smith's employees. In addition to its Manchester facility, the Employer also operates facilities in Kansas City and Parson, Kansas and DeKalb, Illinois. No party contends that a multi-facility unit is appropriate.

At its Manchester facility, the Employer produces carbon steel, stainless steel and aluminum storage tanks primarily for customers in the plastic, agriculture and construction industries. These tanks range from 8 to 14 feet in diameter, 6 to 85 feet in length, and weigh between 8,000 and 40,000 pounds. Some of the tanks require the addition of such items as blend tubes, bin activators, hoppers, ladders and nozzles. The Employer produces about 10 tanks per week. At least 95 percent of all tanks are designed according to the individual customer's specifications.

The Employer's facility is divided into seven areas: paint, small parts, decks and hoppers, gantry, assembly, maintenance, and shipping and receiving. The work performed in these areas is conducted on a day shift that runs from 6 a.m. to 2:30 p.m., Monday through Friday, and a night shift that operates from 2:30 p.m. to 1:30 a.m., Monday through Thursday.

Steve Allen, who has been employed as the plant manager since March 5, 2001, is the highest-ranking official at the facility. Immediately below him in the Employer's hierarchy are day shift Production Superintendent Joe Underwood, night shift Production Superintendent Mike Morris, Quality Manager Stan Henn and Production Control Manager Sam Stewart. Next in the chain-of-command are the Employer's 11 production coordinators and 3 quality coordinators. The production coordinators are Small Parts Coordinators Tommy Anderson and Wesley Gifford; Decks and Hoppers Coordinator Willie McGee; Gantry Coordinators Sandy Gilliam and James Shetters; Assembly Coordinators Harold Short, Sr. and Ron Coffelt; Paint Coordinators Ricky Payne and Danny Wiseman; Shipping and Receiving Coordinator Terry Archey; and Maintenance Coordinator Wilson Chandler. The Quality Coordinators are Andy Knight, Larry Johnson and Hank Anderson. In addition to the coordinators, 43 production and maintenance employees work on the day shift and 23 work on the night shift.

Small Parts Coordinators Anderson and Gifford, who respectively report to Superintendents Underwood and Morris, are assigned to the small parts area. Here, tank accessories, such as man weight covers, nozzles, clips and doorframes, are produced. Twelve employees work on the day shift with Anderson and one employee works on the night shift with Gifford.

Decks and Hoppers Coordinator McGee, who reports to Superintendent Underwood, is assigned to the decks and hoppers area where the top and bottom portions of tanks are produced. Four employees work with McGee on the day shift and three employees work in this area on the night shift.

Gantry Coordinators Gilliam and Shetters work the gantry area where a 24-foot high welding machine is utilized to weld together sheets of metal that eventually make up the sides of tanks. Five employees work in the gantry area on the day shift with Gilliam, while Shetters works with three employees on the night shift. Gilliam and Shetters report to Superintendents Underwood and Morris, respectively.

Assembly Coordinators Short and Coffelt work in the assembly area under the supervision of Superintendents Underwood and Morris. Nine day shift employees work with Short and seven night shift employees work with Coffelt. The assembly area is responsible for installing tank attachments and accessories.

Paint Coordinators Payne and Wiseman work in the paint area which consists of blast, paint and cure rooms that cover the length of the facility, as well as a separate washroom. In the paint area, employees blast, prime, paint and acid wash tanks. Six day shift employees work with Payne and seven night shift employees work with Wiseman. Payne and Wiseman are supervised by Superintendents Underwood and Morris, respectively.

Under the supervision of Production Control Manager Stewart, Shipping and Receiving Coordinator Archey works in the shipping and receiving area where finished tanks and unattached accessories are packaged, loaded and shipped and raw materials utilized in the production process and other shop supplies are received. In addition to Archey, five day shift employees and one night shift employee work in this area.

Maintenance Coordinator Chandler is assigned to the maintenance area where he works with two day shift employees and one night shift employee. Maintenance area

employees are responsible for the upkeep and repair of production machinery.

Chandler's immediate supervisor is Production Superintendent Underwood.

The three quality coordinators, Knight, Johnson and Anderson, inspect tanks in their assigned production areas to ensure that quality products are produced. Knight and Anderson work on the day shift while Johnson works on the night shift. The quality coordinators are supervised by Quality Manager Henn. No employees report to the quality coordinators.

### **Production Coordinators**

The 11 production coordinators generally are the most experienced employees in their assigned areas and use their superior knowledge and skill to determine how to best accomplish the work being performed there. Accordingly, they are paid an additional \$.50 more per hour. The production coordinators have their own workspaces and computers which other employees do not have, but share a common breakroom, wear the same uniform and enjoy the same fringe benefits as the other employees. Although production coordinators are not required to have any specialized education or training in order to hold their positions, the Employer plans to send them to receive human resources, communication skills and conflict resolution training at a community college in Shelbyville, Tennessee in 2002.

Day shift production coordinators report to work at 5:45 a.m., 15 minutes before the arrival of other production employees. Upon arrival, production coordinators determine what occurred in their work area on the previous shift. At the start of the shift at 6 a.m., the production coordinators meet with employees in their respective area to

inform them of their observations and to announce individual and group production goals for the workday. Production coordinators use production control boards in their area to document daily production goals and to comment on the status of pending projects. The production control boards are prepared between 5:45 and 6 a.m., and modified as necessary to reflect feedback received during the 6 a.m. meeting with employees.

At 6:10 a.m. daily, Plant Manager Allen and Production Superintendent Underwood, accompanied by the shipping and receiving coordinator and the small parts coordinator, begin a walk through the entire plant starting at the back end of the line, which is in paint, and working towards the front of the line. As they move from area to area, they discuss production goals and pending projects and are joined by other production coordinators. Each production coordinator visits the production area immediately ahead and behind his area to assess, discuss and resolve issues that could potentially affect production. Another walk-through meeting begins at 2:10 p.m. for the night shift coordinators.

Production coordinators also participate in round-table meetings with Plant Manager Allen every other month. During round-table meetings, production coordinators raise concerns or problems, propose improvements and make suggestions regarding purchases, safety, production, and staffing. The Employer holds separate round-table meetings with production employees on a weekly basis. In addition to walk-through and round-table meetings, production coordinators also attend periodic meetings with their respective superintendent. Day shift production coordinators meet with day shift Superintendent Underwood monthly to discuss production, personnel and

safety issues. Night shift production coordinators and Superintendent Morris meet 2-3 times per week to discuss upcoming special projects, workflow changes and personnel adjustments.

#### Assigning and Directing Work

During the course of their workday, production coordinators assign work to employees in their respective areas. Work assignments within an area vary and are distributed after production coordinators have assessed the complexity of the project, the type of material being utilized, staffing levels and the relative strengths and weaknesses of the employees they supervise. Because employees in their areas typically work in teams, paint and assembly coordinators, as an added responsibility, must determine how employees will be paired when working on group assignments. In making these arrangements, paint and assembly coordinators seek to place skilled employees with less skilled employees.

Plant Manager Allen estimated that Anderson, the day shift small parts coordinator since July 2001, spends 95 percent of his workday assigning work to the 12 employees in his area. Allen testified that the small parts area completes about 200 jobs per day and, as a result, Anderson finds himself “constantly assigning, reassigning, closing out jobs, moving – getting work to another area.” Anderson prioritizes the order in which these jobs will be completed based on information gathered during walk-through meetings as well as the Employer’s production schedule. The remaining 5 percent of Anderson’s time is spent performing small parts work.

Gifford, the night shift small parts coordinator since May or June 2001, spends 10 percent of his time assigning and directing the work of the one employee on the night



shift. In March 2001, when five to six employees worked in the small parts area, 50 to 60 percent of the coordinator's time was spent assigning and directing work. Currently, Gifford spends 90 percent of his time engaged in small parts work with the employee in his area.

Decks and Hoppers Coordinator McGee spends 40 to 50 percent of his time coordinating activities in his area and assigning work to four day shift and three night shift employees. Plant Manager Allen explained that McGee spends this amount of time amount of time assigning work because the layout of decks and hoppers is complex and two employees recently transferred to this area. McGee works about an hour and a half to 2 hours into the night shift to monitor the work of the employees on that shift. However, in his absence, these employees have been instructed to address their questions to the plant superintendent. McGee spends about 40 to 50 percent of his time performing production work in his area.

Gantry Coordinator Gilliam spends 30 percent of his workday assigning work to the five day shift gantry employees. Sixty percent of Gilliam's time is spent working alongside these employees. Plant Manager Allen testified that Gilliam spends less time than Small Parts Coordinator Anderson assigning and directing work because Gilliam is confronted with less tasks per day and his employees have a firm grasp on their job duties. Twenty percent of night shift Gantry Coordinator Shetters' time is spent assigning work to three night shift employees whereas 60 to 70 percent is spent performing production work.

Plant Manager Allen estimated that Assembly Coordinator Short spends 70 to 80 percent of his day assigning work to the nine employees who work with him on the day

shift. Because tanks are in their final stages when they reach Short's area, a considerable amount of Short's time is devoted to conferring with employees to ensure that specifications have been met and coordinating activities between his area and the paint area, the final area of the production process. With respect to the latter task, Short can assign any employee in his area to go to the paint area and perform final touch-up work on a tank before it is painted. In determining who to send, Short considers the employee's workload and experience. Short is not required to obtain approval from his superior before sending an employee to the paint area. Short spends about 15 percent of his time performing assembly work.

Although he generally performs the same tasks as Short, night shift Assembly Coordinator Coffelt, spends 50 to 60 percent of his time assigning work to seven employees. About thirty percent of his time is spent performing production work.

Paint Coordinator Payne spends 50 to 60 percent of his time assigning painting, blasting and washing tasks to the six day shift employees in his area. Payne examines prints with his employees, ensures that they understand what color the tanks will be, and discusses with them whether the tank will be outfitted with logos or special coatings. Once tasks are assigned, Payne periodically checks to determine if the employees are complying with the tank specifications. Payne's assignments require employees to shift from one task to another. The remainder of Payne's time is spent painting, blasting and ordering supplies for the area.

Due to the relative inexperience of the employees in his area, Wiseman, a former paint area employee who became the night shift paint coordinator in November 2001, spends a greater percentage of his time assigning work. Like day shift employees,

employees working with Wiseman shift from task to task. About half of Wiseman's time is spent performing production work.

Sixty percent of Shipping and Receiving Coordinator Archey's time is spent assigning and directing the work of five day shift employees and one night shift employee in his area. Archey performs shipping and receiving tasks 30 percent of the time. Because the shipping and receiving areas are on opposite ends of the facility, two small groups of employees work in these areas. According to Allen, Archey prioritizes the order in which shipments leave the facility and gives instructions to the shipping employees about how to load tanks to prevent damage during transportation. However, according to Hank Anderson, a first shift quality coordinator responsible for inspecting tanks in Archey's area, Archey closes out work orders and unloads steel trucks. Anderson explained that Production Control Manager Stewart determines the priority of the orders and, at a daily meeting not attended by Archey, Stewart informs the shipping employees which trailers to place the tanks on.

According to Plant Manager Allen, Archey is also responsible for "all incoming materials on the receiving end." Upon their receipt, he assigns employees to store raw materials and shop supplies. These employees then inspect the incoming materials to confirm that they match a corresponding invoice. Archey does not check this work for accuracy.

Since Archey works on the day shift, he typically leaves a list of assignments at the facility for the night shift employee to complete by the next day. These assignments are based on the production needs of other areas and the production schedule.

Chandler, who has been employed as a maintenance coordinator at the facility for the past 12 to 15 years, spends 50 percent of his time assigning work to the three employees in his area. Between 30 to 40 percent of Chandler's time is spent working on maintenance and repair projects with his employees and ordering maintenance supplies for the facility. During the workday, production employees throughout the facility bring machine breakdowns to the Employer's attention. After malfunctions are reported, Chandler prioritizes the order in which repairs will occur and then assigns the task of repairing these machines to the employees in his area.

During the shift change, Chandler holds meetings with his employees to discuss what transpired during the day and to assign work to his night shift employee. Chandler creates these assignments based on the production needs of other areas and the production schedule. Chandler's night shift employee primarily works alone and has less experience than the day shift employees. Consequently, he frequently contacts Chandler at home to discuss problems that arise during the night. If the call concerns a problem requiring immediate attention, Chandler either returns to the facility himself to correct it or directs one of the two first shift employees to return. Chandler is not required to seek approval from his superior before directing the day shift employees to return to the facility. On a similar note, Chandler can, without conferring with his supervisor, direct the day shift employees to work a split shift when the night shift employee is on vacation or otherwise absent.

Like the production coordinators they supervise, superintendents also perform production work. The record does not disclose how often this occurs. However,

depending on the nature of the project, superintendents may spend from 10 to 15 minutes to 4 hours performing production work.

Production coordinators can direct qualified employees in their area to train new employees. When hired, new employees report to production coordinators in their assigned area. The production coordinator then introduces the new hire to a safety committee team member, who distributes safety equipment to the employee and gives the employee a tour of the facility. The production coordinator then either trains the employee himself or assigns an "A" classified employee within the area to conduct the training. Production coordinators can select any "A" classified employee to conduct the training. "A" employees are considered to be the most qualified production employees, followed by "B" employees and then "H" employees, also known as helpers. A review of the classifications as of December 31, 2001 shows that on the day shift, 2 employees were classified "H" in their area, 3 were classified as "B" in their area and the remaining 38 were classified as "A" in their area. However, on the night shift only 7 of the 23 employees have an "A" classification, while 8 employees have a "B" classification, and 8 employees are classified as "H".

#### Temporary Transfers

On a daily basis, production coordinators temporarily transfer 2 to 4 production employees from one area to another to satisfy staffing shortages. Prior to such transfers, production coordinators advise their superintendent during the walk-through meeting that a staffing shortage exists. On the day shift, after being advised of the shortage, Superintendent Underwood ultimately decides which areas will have employees added and subtracted, taking into account the recommendations presented

to him by the production coordinators. These recommendations as to how the shifting of employees should take place are "generally" followed. Once a decision to shift employees is approved, production coordinators decide which particular employees will be temporarily transferred. It is unclear whether superintendents communicate suggestions to production coordinators regarding which employees should be transferred.

#### Overtime Decisions

Production coordinators also evaluate production schedules, production needs and staffing levels to determine whether employees in their area will work overtime. If after the evaluation, production coordinators conclude that overtime is necessary, they notify their superintendent and describe the basis for their recommendation.

Superintendents, either alone or with the production coordinator making the request, then discuss the overtime recommendation with Plant Manager Allen, who ultimately decides whether the overtime request will be granted. According to Allen, many times overtime needs are discussed with production coordinators during the walk-through meetings. Overtime recommendations are generally made on a weekly basis, but, in the case of critical projects, are made daily.

#### Hiring Decisions

Plant Manager Allen testified that production coordinators have the authority to make recommendations to increase staffing levels in their area. According to Allen, the Employer hired additional personnel in the shipping and receiving, decks and hoppers, and paint areas following recommendations to do so by production coordinators Archey, McGee and Payne. In that regard, Allen testified that due to attrition, the shipping and

receiving area lost an employee who the Employer decided would not be replaced. Sometime after this decision was made, Archey requested Allen to hire a replacement. The Employer held a couple of meetings to consider Archey's request which ultimately resulted in a replacement being hired. The record is silent as to when this occurred.

Allen also testified that decks and hoppers experienced a similar reduction in staffing levels. Sometime in July 2001, McGee proposed that Allen hire three employees for his area. The Employer honored McGee's request following discussions between McGee, Allen and the superintendents. According to Allen, Payne made three requests during Allen's tenure to increase staffing in the paint area. Allen gave strong weight to Payne's requests and hired two to three employees on the day and night shifts.

With the exception of Maintenance Coordinator Chandler, production coordinators do not participate in the interview and selection of job candidates. Chandler testified that he interviewed two of his current maintenance employees and recommended that they be hired. Chandler also participated in a decision to transfer an out-of-state employee into his area. Chandler interviewed the transfer candidate and recommended that the transfer be approved. In both instances, Chandler's recommendations were approved. Although these hiring and transfer decisions occurred while A.O. Smith operated the facility, the record does not establish that Chandler's authority has changed.

#### Discipline

Pursuant to a directive by Plant Manager Allen, production coordinators were advised that they were expected to enforce company work rules. Upon identifying an

infraction, production coordinators are required to address and resolve the infraction with the employee verbally. In the event production coordinators are unable to satisfactorily curb the employee's behavior, they have been authorized to notify their superintendent and suggest some alternative disciplinary action. Allen was only able to recall one instance where a production coordinator exercised rule enforcement authority. He testified that in November 2001, Assembly Coordinator Coffelt and Superintendent Morris issued a written warning to an employee for low productivity. The circumstances surrounding the issuance of the warning were not described, nor was the warning produced at the hearing.

Superintendent Underwood testified that he has collaborated with production coordinators to discipline and counsel employees. Sometime in 2001, Underwood met with Paint Coordinator Payne to counsel an employee for abusing break rules. Underwood testified that prior to the meeting, Payne approached him and recommended that this form of disciplinary action be taken. Underwood also testified that throughout 2001, each of the production coordinators informed him that they have counseled employees for break and productivity infractions.

Superintendent Morris testified that production coordinators have advised him of work-related infractions being committed in their areas. Morris recalled that a few weeks before the hearing, Paint Coordinator Wiseman initiated a meeting with him to discuss a productivity issue involving an employee. After discussing the matter, Morris and Wiseman met with the employee and issued a verbal warning. The decision to meet with the employee and issue a verbal warning was reached jointly. Shortly before Thanksgiving, Morris and Assembly Coordinator Coffelt issued a verbal warning to an



employee for committing a similar infraction. In both instances, Morris drafted a "write-up" that he and the production coordinator signed, describing the type of discipline that was issued. Neither write-up was produced at the hearing.

### Promotions

Production coordinators play a role in determining whether employees under their supervision should be promoted. Plant Manager Allen testified that if, at the conclusion of a new employee's 90-day probationary period, the production coordinator determines that the employee has performed satisfactorily, he will make a recommendation to the plant superintendent that the employee be promoted. At that time, a team meeting is held among the employees in the area where the probationary employee is assigned, the probationary employee, the production coordinator and the plant superintendent. If a majority of the employees in the area decide that the probationary employee is ready to be promoted, then the employee is promoted. According to Allen, the probationary employee is not promoted if the production coordinator does not make a recommendation to promote. Allen testified that this procedure applies to other promotions as well. No examples were provided of instances in which a production coordinator had failed to recommend a promotion.

### Granting Time Off

Production coordinators receive and evaluate leave request forms submitted to them by employees in their areas. After a leave request form is submitted, production coordinators decide whether the request should be approved or denied by evaluating the Employer's established guidelines regarding staffing levels and production demands. Production coordinators will approve the request and submit it to their

superintendent if all the leave guidelines have been satisfied. The superintendent signs off on the request so long as the leave guidelines have been met. The employee will not be permitted to take the requested leave without the production coordinator's approval. Employees are not permitted to bypass their production coordinator by submitting leave requests directly to a superintendent. At the hearing, the Employer introduced three leave request forms that reflect the approval of vacation requests by Decks and Hoppers Coordinator McGee, Small Parts Coordinator Anderson and Shipping and Receiving Coordinator Archey.

Production coordinators can, without conferring with their superintendent, send an employee home who sustains a serious illness or injury. If an employee is unable to report to work due to an illness, the employee is required to leave a voice-mail message for the superintendent overseeing his shift. Similarly, employees must seek the approval of superintendents when they have an insufficient amount of accrued sick leave to cover the sick leave request.

Due to the nature of the work performed in their area, paint coordinators are permitted to establish the daily break times of employees in their area. According to Plant Manager Allen, break times in the paint area vary because when painting, you need to get to a stopping point and cannot stop at a specific time. Although break times in the remaining areas of the facility are predetermined, production coordinators can alter these set times when work is being performed on a critical, time-sensitive project.

## **Quality Coordinators**

Quality coordinators inspect tanks in their assigned areas and have the authority to halt production in an area where a product deficiency is discovered. The record reveals that production in an area is shut down 2 to 3 times per week.

Quality coordinators complete nonconformance reports when they locate a defect in a "finished" product. In these reports, quality coordinators describe the nature and cause of the defect and recommend ways to prevent similar occurrences in the future. Quality coordinators submit their completed reports to Quality Manager Henn for his review and signature. A carbon copy of the document is then forwarded to the production coordinator in the area where the defect arose so that it can be rectified.

Hank Anderson, a day shift quality coordinator, testified that when he arrives to work, he locates the sales order numbers of tanks that were painted the night before. After doing so, he inspects tanks in the paint area and examines products in the small parts area. In addition to these tasks, Anderson also performs production work. For example, on weekdays, Anderson closes tanks in the paint area and on Saturdays he performs welding in the assembly area. The record does not reveal whether Knight and Johnson also perform production work. However, Anderson's other job duties are essentially the same as those of Knight and Johnson.

Quality coordinators lack the authority to hire, promote, discipline, evaluate employee work performance, or assign overtime work. They do not participate in walk-through meetings. With the exception of Anderson, quality coordinators earn the same hourly wage paid to production and maintenance employees. Anderson earns \$.50 more per hour than Johnson and Knight because he has a welding inspection license.

Quality coordinators, including Anderson, receive the same fringe benefits as production and maintenance employees.

### **Analysis**

Section 2(11) defines “supervisor” as:

any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

To qualify as a supervisor, it is not necessary that an individual possess all of the powers listed in Section 2(11). Rather, the possession of any one of them is sufficient to establish supervisory status, provided the exercise of authority involves the use of independent judgment and is not merely routine or clerical in nature. Harborside Healthcare, Inc., 330 NLRB 1334 (2000). If supervisory authority is exercised in a merely routine, clerical, perfunctory, or sporadic manner, then supervisory status is not conferred on an employee. Azusa Ranch Market, 324 NLRB 811, 812 (1996), citing Bowne of Houston, Inc., 280 NLRB 1222 (1986). The burden of proving supervisory status rests on the party alleging that such status exists. Dynamic Science, Inc., 334 NLRB No. 57 (2001), citing NLRB v. Kentucky River Community Care, 532 U.S. 706, 167 LRRM 2164 (2001). The Board will refrain from construing supervisory status too broadly, as the consequence of doing so is to remove individuals from the protection of the Act. Quadrex Environmental Co., 308 NLRB 101 (1992).

Applying these principles to this case, I first find that, with the exception of Maintenance Coordinator Chandler, the Employer has failed to demonstrate that the

production coordinators are supervisors within the meaning of Section 2(11) of the Act. In its post-hearing brief, the Employer argues that coordinators are statutory supervisors based on their ability to assign work, transfer employees and make recommendations regarding the promotion and discipline of employees. The evidence does not support the Employer's contention with respect to the coordinators' authority to assign and responsibly direct the work of employees. Except for the maintenance area, the work assignments in each production area are dictated largely by a production schedule prepared by the Employer, as well as an examination of the needs of adjacent production areas. These production schedules are prepared monthly and modified sometimes 4 to 6 times per month. Coordinators are not involved in creating production schedules and there is no evidence that they possess any authority to change them or to deviate from them. Although coordinators use the production schedule and information they glean from their review of adjacent production areas to set daily work goals for their employees, these goals are discussed with and scrutinized by the Employer's plant manager and superintendents during daily walk-through meetings. Thus, it becomes apparent that the role of coordinators in directing the work of employees is dictated by operating schedules established by the Employer. Additionally, with regard to the pairing of skilled and less skilled employees by the paint and assembly coordinators, such assignments would appear to be routine in nature. Under these circumstances, the power of coordinators to assign work is insufficient to confer supervisory status. Hydro Conduit Corp., 254 NLRB 433 (1981); Quadrex Environmental Co., Inc., 308 NLRB 101 (1992); Dynamic Science, Inc., 334 NLRB No. 57 (2001).

With respect to the transfer of employees, the Employer relies on Plant Manager Allen's testimony that coordinators decide which employees within their area will be transferred to another area in order to satisfy manpower shortages. As an initial matter, there is no indication in the record that coordinators exercise independent judgment in making transfer decisions. However, the fact that coordinators are obligated to confer with superintendents beforehand suggests that independent judgment is not exercised. No specific examples of instances when coordinators exercised transfer authority were adduced at the hearing to buttress Plant Manager Allen's claims. The absence of supporting evidence showing when and how transfer authority was exercised is fatal to the Employer's claim given the Board's holding that "conclusionary statements made by witnesses in their testimony, without supporting evidence, does not establish supervisory authority." Sears, Roebuck & Co., 304 NLRB 193 (1991).

With respect to promotions, the Employer contends that coordinators have the authority to evaluate employees and to recommend that they be promoted when warranted. The Employer further claims that an employee will not be considered for promotion without the recommendation of a coordinator. As with transfers, the record contains no specific evidence of instances in which coordinators have exercised their authority to recommend promotions. Moreover, although coordinators have the authority to make promotion recommendations, it is undisputed that before deciding whether to promote an employee, the Employer also receives input from production employees during what Plant Manager Allen described as a "team meeting." Allen explained the role of production employees at team meetings as such: "At that time, there's a team meeting held, and as long as the majority of the employees in that

department feel like that employee is ready to be promoted, then he would be promoted....” Thus, the fact that coordinators make promotion recommendations is not dispositive since production employees possess similar authority as well. See World Theatre Corp., 316 NLRB 969 (1995).

With respect to discipline, it is undisputed that coordinators have the authority to verbally reprimand employees and to suggest an alternative form of discipline to the Employer’s superintendents in the event the verbal reprimand is ineffective. To illustrate their rule enforcement authority, Superintendent Underwood testified that each of the coordinators have notified him of times when they counseled employees who violated break and productivity rules. Both Underwood and Superintendent Morris have followed recommendations by coordinators to verbally warn employees for committing break rule and productivity infractions. Neither the issuance of verbal warnings nor the fact that recommendations to issue verbal warnings have been heeded compels a finding that coordinators are statutory supervisors. Regarding verbal warnings, it is well settled that verbal reprimands do not constitute discipline within the meaning of Section 2(11) of the Act, absent some showing of impact on an employees’ job status. Ken-Crest Services, 335 NLRB No. 63 (2001). Here, there has been no showing that a coordinator’s verbal warning has any effect on an employee’s job status. Regarding recommendations to discipline, the Board has consistently applied the principle that authority effectively to recommend generally means that the recommended action is taken without independent investigation by supervisors, not simply that the recommendation is ultimately followed. Children's Farm Home, 324 NLRB 61 (1997)

citing Hawaiian Telephone Company, 186 NLRB 1 (1970). Thus the coordinators involvement in discipline is not sufficient to establish they are statutory supervisors.

The Employer's reliance on coordinators' authority to grant time off is also misplaced. In determining whether to grant an employee time off, coordinators are required to evaluate the Employer's established regulations regarding staffing levels and production demands. Coordinators will only approve leave requests if the established guidelines have been met. While coordinators can reject a leave request if the guidelines have not been met, there is no evidence that they have ever done so. Further, there is no evidence that coordinators have the discretion to reject an employee's leave request when the Employer's guidelines have been met. Thus, the authority of coordinators to grant time off is restricted and fails to involve the exercise of independent judgment. Carlisle Engineered Products, Inc., 330 NLRB No. 189 (2000).

As to the Employer's arguments that coordinators are viewed as "supervisors", receive a higher hourly wage than the employees they oversee, have their own dedicated workspace and computers, and attend separate meetings with management, at best these facts reflect secondary indicia of supervisory status. Because the evidence at hand reveals that coordinators lack the primary indicia of supervisory authority, these facts are insufficient to establish supervisory status. Ken-Crest Services, 335 NLRB No. 63, slip op. at 3 (2001).

Based on the foregoing, I find that Small Parts Coordinators Anderson and Gifford; Decks and Hoppers Coordinator McGee; Gantry Coordinators Gilliam and Shetters; Assembly Coordinators Short and Coffelt; Paint Coordinators Payne and



Wiseman; and Shipping and Receiving Coordinator Archey are not supervisors within the meaning of the Act and I will include them in the unit found appropriate here.

As to the status of Maintenance Coordinator Chandler, the record discloses that he interviewed and recommended the hire of two of his current employees. Chandler also interviewed and recommended approval of the transfer of an out-of-state transfer candidate. In both instances, it is undisputed that Chandler's recommendations were followed. Although Chandler participated in the hiring and transfer decisions as an employee of A.O. Smith, there is no evidence in the record that the Employer has rescinded or restricted Chandler's authority. Chandler's authority to recommend the hiring and transfer of employees is, therefore, sufficient to warrant finding him a statutory supervisor. Fred Meyer Alaska, Inc., 334 NLRB No. 94 (2001).

Also demonstrative of Chandler's supervisory status is his ability to independently adjust the work schedules of employees in his area. In this regard, Chandler testified that he has the unfettered discretion to order day shift employees to return to the facility to handle emergencies and that he has also split their shift when the night shift employee is absent. Since I have found that Maintenance Coordinator Chandler is a supervisor within the meaning of the Act, I will exclude him from the unit found appropriate here.

With regard to the three quality coordinators, evidence that they possess any supervisory indicia is noticeably absent. Quality coordinators do not possess the power to hire, promote or discipline employees or effectively recommend such actions. Nor do they play any role in assigning or directing employees' work. In fact, unlike production coordinators, quality coordinators have no employees reporting to them. The evidence

also reveals that with the exception of Anderson, quality coordinators receive the same hourly wage as rank-in-file production employees.

Relying on McClatchy Newspapers, 307 NLRB 773 (1992), the Employer argues in its post-hearing brief that the authority of quality coordinators to halt production, in and of itself, is sufficient to confer supervisory status upon them in this case. This reliance is misplaced. Although the Board found that press operators in McClatchy Newspapers were statutory supervisors, in reaching that conclusion, the Board considered several factors, including the authority of the press operators to assign and direct work, stop the press, evaluate work performance, issue warnings and give commendations. While the quality coordinators here, like the press operators in McClatchy Newspapers, are responsible for stopping production, that authority alone is not sufficient to confer supervisory status.

### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during the period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period, and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees

who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by **UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC**.

### **LIST OF VOTERS**

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is hereby directed that an election eligibility list, containing the full names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 26 within 7 days of the date of this Decision and Direction of Election. North Macon Health Care Facility, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. I shall, in turn, make the list available to all parties to the election.

In order to be timely filed, such list must be received in the Regional Office, 1407 Union Avenue, Suite 800, Memphis, TN 38104, on or before **January 25, 2002**. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever

proper objections are filed. The list may be submitted by facsimile transmission. Since the list is to be made available to all parties to the election, please furnish a total of **2** copies, unless the list is submitted by facsimile, in which case no copies need be submitted. To speed preliminary checking and the voting process itself, the names should be alphabetized (overall or by department, etc.). If you have any questions, please contact the Regional Office.

### **NOTICE OF POSTING OBLIGATIONS**

According to Board Rules and Regulations, Section 103.20, Notices to Election must be posted in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. Section 103.20(c) of the Board's Rules and Regulations requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. Club Demonstration Services, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

### **RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 10570. This request must be received by the Board in Washington by 5 p.m., EST, on February 1, 2002.

Dated at Memphis, Tennessee, this 18<sup>th</sup> day of January 2002.

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Ronald K. Hooks  
Regional Director, Region 26  
National Labor Relations Board

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